

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN**

Same Day Processing, Inc.;  
44 North Lists LLC;  
Right Donor Builders PDM LLC; and  
The Free USA, LLC

Plaintiffs/Counterclaim Defendants

vs.

Gabriel Franck

Defendant/Counterclaim Plaintiff

vs.

Thomas Datwyler

Third Party Defendant.

**Civil No. 23-731**

**PLAINTIFFS/COUNTERCLAIM  
DEFENDANTS AND THIRD-PARTY  
DEFENDANT’S UNOPPOSED MOTION  
FOR LEAVE TO SUBMIT REPLY  
BRIEF IN CAMERA**

Plaintiffs and Counterclaim Defendants Same Day Processing, Inc. (“SDP”), 44 North Lists LLC, Right Donor Builders PDM LLC, and The Free USA, LLC (collectively, “Plaintiffs”), together with Third Party Defendant Thomas Datwyler (“Datwyler”), with the consent of Defendant/Counterclaim Plaintiff, respectfully move for leave to submit certain portions of its Reply in Support of Plaintiffs and Third-Party Defendant’s Motion for Disqualification of Counsel for in camera review and to restrict access to these materials to attorneys and staff at Eckberg Lammers, P.C. (“Eckberg Lammers”), Datwyler, Plaintiffs and their counsel (the “Permitted Individuals”).

The portions of the reply brief to be submitted *in camera* summarize communications between SDP and Eckberg Lammers seeking or providing legal advice and drafts of documents

that Eckberg Lammers prepared for SDP. Such information is protected from discovery as a matter of law, and SDP therefore respectfully requests to submit the reply brief *in camera*. *McCoy v. DePuy Orthopaedics, Inc.*, No. 22-CV-2075 JLS (KSC), 2023 WL 3829692, at \*2 (S.D. Cal. June 5, 2023) (citing *United States v. Zolin*, 491 U.S. 554, 568–69 (1989)) (“The Supreme Court has approved the use of *in camera* review to preserve privileged information where the review of such evidence is necessary to protect attorney-client privilege and attorney work product.”). SDP will file a redacted version of the brief on the public docket.

Moreover, limiting access to the Confidential Materials to the Permitted Individuals is sufficient to allow Franck to oppose the Motion for Disqualification and will facilitate the Court’s review of the Motion. *See Radware, Ltd. v. A10 Networks, Inc.*, No. C-13-02021-RMW, 2014 WL 116428, at \*1, 3 (N.D. Cal. Jan. 10, 2014) (limiting access to materials submitted for *in camera* review to the court, plaintiff, and the “actual attorneys at Irell who previously represented [plaintiff]”). Broadening access of the Confidential Materials could impose harm on Plaintiffs, who seek to preserve privilege. *Id.* (observing that, if the Court were to allow disclosure to additional attorneys it would force plaintiff into making an “agonizing and unfair choice between disclosing its attorney-client communications to third parties . . . and litigating against a firm [plaintiff] believes will use confidential information” against it). Therefore, this approach appropriately balances interests in protecting the integrity of the judicial process and preventing conflicts of interest, Plaintiffs’ interest in preserving privilege and protecting their confidential information, and minimal prejudice to Franck.

Counsel for Plaintiffs and Datwyler conferred with counsel for Defendant/Counterclaim Plaintiff concerning this Motion via phone on March 18, 2024, and counsel for Defendant/Counterclaim Plaintiff provided his consent to this Motion.

Dated: March 18, 2024

/s/ Lauren W. Linderman

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**CERTIFICATE OF SERVICE**

I hereby certify that on the date set forth below, the foregoing document was electronically filed with the Clerk of Court using the CM/ECF system and served on the following:

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Dated: March 18, 2024

/s/ Lauren W. Linderman